

August 20, 2008

**Update for the Release of Information for Communicable Disease
Investigations Rulemaking (9 A.A.C. Chapter 6, Article 1, R9-6-102)**

A.R.S. § 36-136(H)(1) states that the Arizona Department of Health Services (Department) shall “define and prescribe reasonably necessary measures for detecting, reporting, preventing, and controlling communicable and preventable diseases.” The current R9-6-102 addresses the release of protected health information to the Department or a local health agency when the information is requested for the purpose of detecting, preventing, or controlling disease, injury, or disability.

In investigating many types of communicable diseases, the Department or a local health agency may require information that is not protected health information. For instance, in investigating a food-borne disease, the Department or a local health agency may require information from food suppliers or retail stores. In investigating a case of Legionnaire disease at a hotel, the Department or a local health agency may require information about the guests of the hotel at the time. Since the current rule only addresses one type of information that may be necessary when investigating a communicable disease outbreak or conducting an epidemiologic investigation of a communicable disease case, the rule is confusing in that it appears to limit the information the Department or a local health agency may request.

The proposed rule will make clear that the information that is required to be released to the Department or a local health agency when the Department or local health agency is investigating a communicable disease includes protected health information, as defined in 45 C.F.R. 160.103, but is not limited to this type of information. The proposed rule will enable the Department and local health agencies to obtain information in a more timely manner, and thus contribute to the ability of the Department and local health agencies to detect, prevent, and control communicable diseases and the injury and disability that may result from communicable diseases.

The Department posted a draft of the revised R9-6-102 on the Department’s website for informal public comment, and received comments on the draft. Most comments expressed support for the draft rule, but a few asked about the scope of the information that may be requested. The Department has revised the draft rule to make clearer that the information requested is related to investigating a communicable disease, and plans to submit a Notice of Proposed Rulemaking for this rule before the end of August.

Stakeholders can communicate their issues and concerns to Ruthann Smejkal, Rules Analyst for the Department, by e-mail at smejkar@azdhs.gov, by phone at 602-364-1230, or by fax at 602-364-1150.